

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

LINWOOD EDWARD TRACY, JR.; et al.,

Plaintiffs,

v.

CEO, SUCCESSOR FOR DEUTSCHE  
NATIONAL TRUST COMPANY; et al.,

Defendants.

3:11-cv-0436-LRH-VPC

ORDER

Before the court is plaintiff Linwood Edward Tracy, Jr.'s ("Tracy") motion for damages against defendant Chief Judge Robert C. Jones ("Chief Judge Jones") which the court shall construe as a motion for default judgment. Doc. #115.<sup>1</sup>

**I. Facts and Background**

At its core, this is a wrongful foreclosure and wrongful taxation action. Plaintiff William Gerald Fillion ("Fillion") owned real property in California which was subject to state, county, and city tax assessments. The tax assessments went unpaid and eventually the property was foreclosed upon.

On June 21, 2011, plaintiffs filed a civil rights complaint against defendants for violation of their First and Fourth Amendment rights. *See* Doc. #1. In particular, plaintiffs challenge the tax assessments and foreclosure claiming that the property belonged to a non-profit organization.

<sup>1</sup> Refers to the court's docket number.

1 Thereafter, Tracy filed the present motion for damages against Chief Judge Jones.

2 **II. Discussion**

3 The court has reviewed Tracy's motion and finds that it is without merit. In order to obtain a  
4 default judgment, a party must first obtain a clerk's entry of default which can only be obtained by  
5 establishing, through an affidavit, that a defendant has failed to plead or otherwise defend itself in  
6 the action. *See* Fed. R. Civ. P. 55(a); *Warner Bros. Entm't Inc. v. Caridi*, 346 F. Supp. 2d 1068,  
7 1071 (C.D. Cal. 2004) (citation omitted). Here, no clerk's entry of default has been obtained by  
8 Tracy against Chief Judge Jones. As such, there is no basis for the court to enter a default judgment  
9 at this time. Accordingly, the court shall deny Tracy's motion for damages.

10  
11 IT IS THEREFORE ORDERED that plaintiff's motion for damages (Doc. #115) is  
12 DENIED.

13 IT IS SO ORDERED.

14 DATED this 5th day of July, 2012.

  
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LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE